

## **Dickerson v. United States**

(June 26, 2000) \_\_US\_\_

### **ISSUE**

Must law enforcement officers continue to comply with the *Miranda* procedure, or was *Miranda* abrogated by Congress 1968?

### **FACTS**

FBI agents arrested Dickerson for committing seven bank robberies in Maryland and Virginia. He was subsequently questioned by agents who did not obtain a *Miranda* waiver. During the questioning, Dickerson made certain statements that were suppressed before trial on grounds they were obtained in violation of *Miranda*.

In a decision that gained national attention, the Fourth Circuit ruled that *Miranda* waivers are no longer required when officers are interrogating suspects who are in custody. The court's ruling was based on a provision in the Omnibus Crime Control Act of 1968 which provided that a defendant's statement is admissible in court if the statement was given voluntarily, regardless of whether the defendant waived his *Miranda* rights.<sup>(1)</sup>

Not surprisingly, the United States Supreme Court decided to review the Fourth Circuit's decision.

### **DISCUSSION**

The United States Supreme Court ruled that Congress did not have the authority to overrule or modify *Miranda*. This was because *Miranda* was based on the Constitution and was not merely a judicially-created rule of evidence subject to Congressional modification.<sup>(2)</sup> As the Court pointed out, "Congress may not legislatively supersede our decisions interpreting and applying the Constitution."

Although the Court, itself, could certainly modify or even overrule *Miranda*, it concluded there were at least two reasons for not doing so at this time. First, the *Miranda* procedure has been fully integrated into the American criminal justice system. As the Court pointed out, "*Miranda* has become embedded in routine police practice to the point where the warnings have become part of our national culture."

Second, many of the problems resulting from *Miranda* have been reduced or eliminated as the result of subsequent decisions by the Court. As it noted, "If anything, our subsequent cases have reduced the impact of the *Miranda* rule on legitimate law enforcement while reaffirming the decision's core ruling that unwarned statements may not be used as evidence in the prosecution's case in chief."

The Court then summarized its ruling as follows: "[W]e conclude that *Miranda* announced a constitutional rule that Congress may not supersede legislatively. Following the rule of stare decisis, we decline to overrule *Miranda* ourselves."

### **DA's COMMENT**

Two additional points about *Dickerson* should be noted. First, as the Court pointed out, if *Miranda* were repealed, the admissibility of suspects' statements would be governed by the old totality-of-the-circumstances "voluntariness" rule which is not necessarily a good thing for law enforcement. Said the Court, "[E]xperience suggests that the totality-of-the-circumstances test is more difficult than *Miranda* for law enforcement officers to conform to, and for courts to apply in a consistent manner."

Although it is true that an involuntary statement will be suppressed even if *Miranda* were abrogated, as a practical matter this does not happen much. Quoting from its decision in *Berkemer v. McCarty*<sup>(3)</sup> the Court noted that "cases in which a defendant can make a colorable argument that a self-incriminating statement was 'compelled' despite the fact that the law enforcement authorities adhered to the dictates of *Miranda* are rare."

Second, the Court's decision in *Dickerson* should put an end to the debate surrounding the controversial procedure known as "going outside *Miranda*"; i.e., intentionally ignoring a suspect's unambiguous *Miranda* invocation in hopes of obtaining a statement that can be used for impeachment purposes. Proponents of "outside *Miranda*" based their legal arguments largely on the idea that *Miranda* was nothing more than a "recommended procedure," and was not a Constitutional requirement.<sup>(4)</sup> *Dickerson* expressly rejected this idea.

(1) See 18 USC § 3501. **NOTES:** In *Dickerson*, the Court acknowledged that Congress, by enacting this provision, intended to overrule *Miranda*. Although this provision has been on the books for over 30 years, the U.S. Department of Justice has taken the position that it does not supersede *Miranda*.

(2) **NOTE:** The Court conceded "there is language in some of our opinions that supports the view taken by [the Fourth Circuit]. But first and foremost of the factors on the other side-that *Miranda* is a constitutional decision-is that both *Miranda* and two of its companion cases applied the rule to proceedings in state courts. . . With respect to proceedings in state courts, our authority is limited to enforcing the commands of the United States Constitution." The Court also noted the majority opinion in *Miranda* "is replete with statements indicating that the majority thought it was announcing a constitutional rule." In response to the argument that the Court has, over the years, announced exceptions to *Miranda*, such as the public safety exception in *New York v. Quarles* (1984) 467 US 649, the Court pointed out, "These decision illustrate the principle-not that *Miranda* is not a constitutional rule-but that no constitutional rule is immutable. No court laying down a general rule can possibly foresee the various circumstances in which counsel will seek to apply it, and the sort of modifications represented by these cases are as much a normal part of constitutional law as the original decision."

(3) (1984) 468 US 420, 433, fn.20.

(4) **Examples:** "Interrogation Law Seminar," presented by the Robert Presley Institute of Criminal Investigation, October 18, 1996: "Non-coercive police questioning that departs from *Miranda* does not violate a suspect's civil rights or his Fifth Amendment Rights." *Amicus Curiae* Brief of the State of California in *California Attorneys for Criminal Justice v. Butts*: "*Miranda* recommended certain 'procedural safeguards' as a means of obtaining a statement that would be admissible during the prosecution's case-in-chief without violating the suspect's Fifth Amendment right against self-incrimination. It is beyond dispute, however, that none of *Miranda*'s procedures are themselves rights

protected by the Constitution. Thus the mere failure to follow them does not constitute a violation of the Fifth Amendment or any other provision of the Constitution."